

**REMARKS**

Applicant has carefully studied the outstanding Office Action. The present response is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application are respectfully requested.

Applicant expresses his appreciation to Examiner Kumiko C. Koyama and SPE Michael G. Lee for the courtesy of an interview which was granted to applicant's representative, Sanford T. Colb (Reg. No. 26,856). The interview was held at the USPTO on September 13, 2005. The substance of the interview is set forth in the Interview Summary.

At the interview, the patentability of the claims was discussed vis-à-vis the prior art of Kump, Goodwin and Hockaday. The Interview Summary states, in relevant part, "Applicant's representative, Mr. Colb, described the differences between the cited prior art references and the claimed invention. With respect to claim 31, the Examiners agreed that the cited prior art appears to differentiate with the claimed invention. Mr. Colb agreed to cancel the claims that are not related to claim 31 to expedite the prosecution of the application."

As agreed upon at the interview, Applicant has cancelled claims 1-30 and 37-72 without prejudice.

Subsequent to the interview, the Examiner requested that claim 31 be amended to include the limitation "electronic shelf label" in the body of the claim in addition to the preamble. Applicant has accordingly amended claim 31 as requested.

Subsequent to the interview, the Examiner also referenced U.S. Patents 6,924,763 to Gelbman and 6,897,763 to Schulmerich et al. as relevant prior art not cited earlier. The present response relates, therefore, not only to the prior art cited in the outstanding Office Action, but also to the additional prior art which the Examiner brought to applicants' attention.

The abstract is objected to because it includes improper language. Applicant has amended the abstract to overcome the rejection.

The specification is objected to as not disclosing that the application is a continuation of USSN 09/714,798. Applicant respectfully submits that the specification has been previously amended, in a preliminary amendment filed on February 10, 2004, to incorporate this disclosure.

Claims 31, 35 and 36 stand rejected under U.S.C. 103(a) as being unpatentable over Ackerman in view of Hockaday. Ackerman describes an improved system architecture and stored programs permitting improved accuracy in a system for displaying prices in a retail store. Hockaday describes micro-cell fuel power devices.

As discussed at the interview, it is respectfully submitted that Fig. 6B of Hockaday does not show or suggest a fuel tank filling generally the volume of the housing not occupied by the display and the data communicator. All that Fig. 6B shows is the location of the fuel tank. Nothing is taught about filling the volume of a cell phone, let alone of a shelf label. Accordingly, claims 31 and the claims depending therefrom, claims 32-36, are deemed to be allowable over the cited prior art of Ackerman and Hockaday.

Concerning the additional art cited by the Examiner subsequent to the interview, Applicant respectfully submits that Schulmerich et al was filed on August 7, 2003 and thus is ineligible to be used as a prior art reference in the present application, which is a continuation of USSN 09/714,798, now U.S. Patent 6,715,675, which was filed on November 16, 2000.

Gelbman describes a smart, flexible, self-contained, electronic label employing electronic ink that does not require an onboard power source. Applicant respectfully submits that while Gelbman does describe an electronic label including a power storage element (Col. 10, lines 6-12), Gelbman does not show or suggest the electronic shelf label including a shelf label housing, a shelf label display, a shelf label data communicator and at least one fuel cell, where the at least one fuel cell includes a fuel tank, filling generally the volume of the electronic shelf label housing not occupied by the display and the data communicator, as recited in claim 31.

Applicant respectfully submits, therefore, that claim 31 is deemed to be allowable.

Claim 32 stands rejected under U.S.C. 103(a) as being unpatentable over Ackerman in view of Hockaday and further in view of Sejzer. Claim 33 stands rejected under U.S.C. 103(a) as being unpatentable over Ackerman in view of Hockaday and further in view of Yao. Claim 34 stands rejected under U.S.C. 103(a) as being unpatentable over Ackerman in view of Hockaday and further in view of Maile.

Sejzer describes a sales promotion system and method for attracting consumer attention to each individual article of a plurality of articles being sold and which are typically arranged on a store shelf.

Yao describes an implantable biologically acceptable miniature fuel cell that is intermittently refuelable through one or more percutaneously positioned refueling ports. Maile describes a battery system and method of manufacture in which at least two batteries, having different chemistries, are integrated into a common housing.

Claims 32-36 depend from claim 31 and incorporate the recitation therein of a fuel tank which generally fills the volume of the housing of the electronic shelf label, which is shown in none of the cited references and is not shown or suggested by any combination

thereof. Accordingly, claims 32-36, which depend from claim 31 and add further distinguishing recitation thereto, are deemed to be allowable.

Claims 43, 51, 63-67 and 69-71 stand rejected under U.S.C. 102(e) as being anticipated by Brick et al (U.S. 6,269,342). Brick et al describes a programmable shelf tag system.

Claim 1 stands rejected under U.S.C. 103(a) as being unpatentable over Kump et al (U.S. 6,119,990) in view of Goodwin III (U.S. 5,847,378).

Kump et al describes a holder for an electronic information carrier including a body having a cavity for holding an associated electronic price label, a rear wall having a convex section and an aperture extending through the convex section.

Goodwin III describes an electronic price label which uses a two-part overlay arrangement to avoid stacking of permanent adhesive overlays and includes a housing having a front surface containing an aperture exposing the electronic display.

Claim 2 stands rejected under U.S.C. 103(a) as being unpatentable over Kump et al in view of Goodwin III and further in view of Habing et al (U.S. 6,211,934).

Claims 3, 4, and 8 stand rejected under U.S.C. 103(a) as being unpatentable over Kump et al in view of Goodwin III and Kump in view of Goodwin and Habing and further in view of Roberts (U.S. 4,710,820). Claim 5 stands rejected under U.S.C. 103(a) as being unpatentable over Kump et al in view of Goodwin III and further in view of Mitchell et al (U.S. 6,259,971).

Claim 7 stands rejected under U.S.C. 103(a) as being unpatentable over Kump et al in view of Goodwin III and Mitchell and further in view of Hockaday (U.S. 6,326,097). Claim 9 stands rejected under U.S.C. 103(a) as being unpatentable over Kump et al in view of Goodwin III and Habing and further in view of Flint (U.S. 3,698,795).

Habing describes methods and apparatuses for reducing the solar or infrared loading on display devices. Roberts describes a single layer optical coupler pad disposed between and in intimate contact with the window of a cathode ray tube (CRT) and a multi-lens assembly for transmitting a video image on the CRT's window to the lens assembly for display on the screen of a projection television receiver.

Mitchell describes a portable electronic system which obtains power from a dry-electrolyte fuel cell. Hockaday describes micro-cell fuel power devices.

Flint describes a spectral dispersion reflective grating including a vacuum deposited metal film with straight, parallel grooves.

Claims 21 and 37 stand rejected under U.S.C. 103(a) as being unpatentable over Ackerman et al (U.S. 5,467,474) in view of Mitchell. Ackerman describes an improved system

architecture and stored programs permitting improved accuracy in a system for displaying prices in a retail store.

Claim 22 stands rejected under U.S.C. 103(a) as being unpatentable over Ackerman in view of Mitchell and further in view of Sejzer (U.S. 5,243,504).

Claim 23 stands rejected under U.S.C. 103(a) as being unpatentable over Ackerman in view of Mitchell and further in view of Yao et al (U.S. 4,294,891). Claim 24 stands rejected under U.S.C. 103(a) as being unpatentable over Ackerman in view of Mitchell and further in view of Maile et al (U.S. 6,238,813).

Claims 25-26 stand rejected under U.S.C. 103(a) as being unpatentable over Ackerman in view of Mitchell and further in view of Hockaday. Claims 27 and 29-30 stand rejected under U.S.C. 103(a) as being unpatentable over Ackerman in view of Mitchell and further in view of Roberts.

Claim 28 stands rejected under U.S.C. 103(a) as being unpatentable over Ackerman in view of Mitchell and Roberts and further in view of Habing.

Independent claim 62 as well as dependent claims 25 and 26 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Ackerman as modified by Mitchell and further in view of Hockaday.

Claim 42 stands rejected under U.S.C. 103(a) as being unpatentable over Plocher in view of Komaki (U.S. 4,704,003).

Plocher describes a system and method of locating a wireless device which relies on signal strength measurements and the known positions of receiving sensors.

Komaki describes a display panel including a first base, a second base, a flexible display for displaying and a cavity disposed on the second base.

Claims 52-61, 68 and 72 stand rejected under U.S.C. 103(a) as being unpatentable over Brick in view of Halperin (U.S. 6,105,004).

Halperin describes a product monitoring system for monitoring a variety of products grouped according to their identities on shelves, includes a central computer storing the identification of each group of products on the shelves; a plurality of electronic shelf labels, each located adjacent to a shelf for a group of products, communicating with the central computer, storing the identification of the respective group of products, displaying information relating to the respective group of products, and reading out the identification of the respective group of products; a plurality of portable units each to be carried by a user of the system; and a record memory for each portable unit.

As noted above, to expedite the prosecution of the application, all of the claims except claims 31-36 have been cancelled without prejudice.

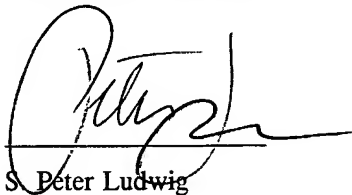
Customer No. 07278

Attorney Docket No. 06727/100H935-US1

In view of the foregoing remarks and amendments, all of the remaining claims are deemed to be allowable. Favorable reconsideration and allowance of the application is respectfully requested.

Date: September 21, 2005

Respectfully submitted

A handwritten signature in black ink, appearing to read 'S. Peter Ludwig', is written over a horizontal line.

S. Peter Ludwig

Reg. No. 25,351

Attorney for Applicants

DARBY & DARBY, P.C.

P.O. Box 5257

New York, NY 10150-5257

212.527.7700